

# BETWEEN THE SPECIES

## Nonhuman Animals: Not Necessarily Saints or Sinners

### ABSTRACT

Higher-order thought theories maintain that consciousness involves the having of higher-order thoughts about mental states. In response to these theories of consciousness, an attempt is often made to illustrate that nonhuman animals possess said consciousness, overlooking a potential consequence: attributing higher-order thought to nonhuman animals might entail that they should be held morally accountable for their actions. I argue that moral responsibility requires more than higher-order thought: moral agency requires a specific higher-order thought which concerns a belief about the rightness or wrongness of affecting another's mental states. This "moral thought" about the rightness or wrongness is not yet demonstrated in even the most intelligent nonhuman animals, thus we should suspend our judgments about the "rightness" or "wrongness" of their actions while further questioning the recent insistence on developing an animal morality.

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## 1. Introduction

Higher-order thought (HOT) theories of consciousness assume that a mental state is conscious only if the subject has (or is disposed to have) a further higher-order thought, belief, or judgment that she is in said mental state (Rosenthal 1986; Carruthers 2000). A mental state being conscious, then, cannot be reduced to the mere having of mental states; rather, consciousness is said to arise only when one has a further higher-order belief or thought about a lower-order mental state of, say, pain. In keeping with the criteria of such theories of consciousness, certain HOT theorists such as Gennaro (1993, 2009) and Lurz (2011) attempt to illustrate that nonhuman animals are conscious, even according to a HOT standard. Presumably, by doing so, the moral arena will be extended to nonhuman animals, who too are said to be conscious according to even a HOT standard.

Although animal ethicists would consider this a victory, what is commonly overlooked is a potentially alarming consequence: attributing higher-order thought to nonhuman animals might require that we hold them morally accountable for their actions. As Francescotti writes, “one is a moral agent only if one is capable of having thoughts about the welfare of others—which would consist, at least in part, in thoughts about the mental states of others” (2007, 246). Thus, we must proceed cautiously so that the attempt to demonstrate higher-order thought in nonhuman animals avoids a commitment to moral agency.

The concern, then, is the following: if HOT theories of consciousness are correct, the only way to ensure that nonhuman animals are afforded direct moral consideration is to demonstrate that they possess HOT. Yet, if nonhuman animals meet

the criteria for having HOT, they could be said to be moral agents since “higher-order intentionality seems relevant to the issue of moral agency” (Francescotti 2007, 246).

In the following discussion, I will demonstrate that there is a specific type of higher-order thought that is necessary for moral agency: moral thought third-order intentionality, which concerns a belief about the rightness or wrongness of affecting another’s mental states. Such a higher-order thought, as I call it “moral thought,” requires that one be able to not only, for instance, desire to deceive another or produce a false belief in another, but also that one possess a further higher-order belief that such a desire to deceive is either right or wrong. This “moral thought” about the rightness or wrongness of a given desire cannot be demonstrated, with certainty, in even the most intelligent of fully developed nonhuman animals. Thus we can ensure the moral considerability of nonhuman animals under a HOT theory of consciousness without a commitment to the view that they are therefore moral agents. While this conclusion might seem rather obvious, it is useful in motivating a critical response to the growing movement to demonstrate that nonhuman animals are moral beings or subjects.

## 2. What is consciousness?

Mental states such as beliefs, desires, perceptions, and sensations are either unconscious or conscious. For example, one may have a belief that “today is Thursday” without consciously entertaining it because her mind is preoccupied with some other matter, such as the consciously entertained belief that it is raining outside and the desire to find an umbrella. Pains and bodily sensations can also be unconscious: one can have a pain in her leg, even though the subject is preoccupied with some other matter and is not consciously attending to the pain. This

possession of an unconscious state of pain is one example of how a being could be said to have a pain without actually experiencing or feeling the pain (Carruthers 1992).

A debate within consciousness studies concerns what it means for a *mental* state to be “phenomenally conscious.” Phenomenal consciousness (p-consciousness) is defined by Block (1995) in terms of what it is like for the subject to have the conscious experiences she does. Carruthers points out that p-consciousness is the property only *conscious* mental *states* possess: it is the “property that perceptions and bodily sensations possess when there is something that it is like for a creature to undergo those events, or when the events in question possess a subjective feel” (2011, 374). Thus, the central claim is that a mental state is conscious only if it has a phenomenology of inner feel—a “something it is like” aspect, as coined by Nagel (1974).

Two important approaches to phenomenal consciousness are first-order representational (FOR) theories and higher-order representational theories (HOR). The primary focus of both representational approaches is an attempt to explain *state* consciousness (rather than *creature* consciousness). That is, the concern is not about the consciousness of a particular creature (such as whether or not Kimberly is conscious)—rather, the concern is whether or not a *mental state* is conscious, such as my belief that today is Thursday.

As described by Lurz, “first-order representational (FOR) theories hold that mental states are conscious not because the subject is higher-order aware of having them but because the states themselves make the subject aware of the external environment” (2009, 9). Dretske (1995) and Tye (1995) explain

consciousness in terms of world-directed or first-order intentional states: mental states such as perceptual experiences and bodily sensations are said to be conscious if they affect or are poised to affect one's belief-forming system. According to Carruthers (2005), if some form of first-order phenomenal consciousness is correct, then phenomenal consciousness will be widespread in the animal community. Since nonhuman animals often form beliefs about their environment based upon their perceptual states and bodily sensations, they are said to possess conscious perceptual states and experience bodily sensations under a FOR theory. Since a mental state can be phenomenally conscious, according to a FOR approach, even when it is not represented by another higher-order mental state, higher order representations (higher-order beliefs, perceptions, or thoughts) are not necessary for phenomenal consciousness.

Higher-order representational (HOR) theories maintain that a mental state is conscious only when there is a higher-order representation of the mental state. Within HOR theories of consciousness there are two dominant approaches: HOP (Higher-order perception) and HOT (higher-order thought). HOP theorists (Armstrong 1980; Lycan 1996) maintain that consciousness is explained in terms of inner perception of mental states, which does not require the capacity to conceptualize mental states. While HOP theories pose little threat to the claim of animal consciousness, HOT theories present a significant challenge to the claim that nonhuman animals are conscious.

### **3. A closer look at higher-order thought theories**

HOT theorists attempt to explain intransitive state consciousness in terms of transitive creature consciousness. Transitive consciousness is described as consciousness *of* something.

Since mental states are not conscious of anything, transitive consciousness applies only to creatures and is thus a form of creature consciousness. Rowlands (2011, 536) notes that we can derive two central conclusions from the claim that intransitive state consciousness can be explained in terms of transitive creature consciousness: (1) a mental state *M* of creature *C* is (intransitively) conscious if and only if *C* is (transitively) conscious of *M*, and (2) creature *C* is (transitively) conscious of mental state *M* if and only if *C* has a thought to the effect that it has *M*. So, (1) a mental state possessed by an animal, such as pain, is (intransitively) conscious only if the animal is (transitively) conscious of the pain, and (2) a creature is (transitively) conscious of the pain only if the creature has a higher-order thought about the pain. The central claim is the following: transitive creature consciousness is ultimately explainable in terms of a higher-order thought—a thought about a mental state (from here on out, I will refer to transitive creature consciousness as simply “consciousness”).

As Seager (2004) and Dretske (1995) point out, HOT theories seem to impose a great burden of conceptual ability since they maintain that consciousness requires the capacity to think about and conceptualize one’s own thoughts. This is evident in Rosenthal’s (1986) HOT account which maintains that a mental state is not conscious unless one is aware of that state—where awareness entails that one has a thought about the first-order mental state. Thus, to be *conscious of* something, or *aware of* something, is to be “in a mental state whose content pertains to that thing” (Rosenthal 1986, 27).

HOT theories thus present two possible conclusions regarding animal consciousness: 1) the denial that nonhuman animals are conscious, or 2) the granting of a greater conceptual capac-

ity to nonhuman animals than they are traditionally credited with (Seager 2004). Carruthers (2000) and Davidson (1975) endorse the first line of thought by arguing that nonhuman animals are unable to meet the intellectual, cognitive, and conceptual standard of high-order thought theories. Others, as we will see, attempt to demonstrate HOT in nonhuman animals by pointing to their capacity for metacognition, mindreading, or even language.

#### **4. The significance of animal consciousness**

As Carruthers (1992) points out, determining whether or not the mental states of nonhuman animals are conscious will shape the animal ethics debate. This is to say that the moral status of a being is fundamentally tied to its mental status: an entity must possess transitive creature consciousness (and thus intransitive state consciousness) in order for it to be morally considerable. Since only conscious mental states, and not unconscious mental states, have phenomenal properties or subjective feels, only creatures who possess conscious mental states can be said to have *sentience*: the fundamental criterion of moral considerability in most accounts of animal ethics (Singer 1975; Francione 2000; Rollin 2006). If nonhuman animals are not sentient, they cannot be said to have phenomenal feels or subjective experiences of pain and suffering, thus making it asinine to criticize the exploitation of nonhuman animals on the ground that it forces nonhuman animals to endure excruciating pain and suffering.

Nonhuman animals are commonly assumed to be sentient based on their behavioral and physiological responses to adverse stimuli which presumably indicate that nonhuman animals do in fact have mental states such as pain or pleasure

(Singer 1975; Francione 2000; Rollin 2006). At first glance, it seems uncontroversial to attribute sentience to nonhuman animals based on their behavior and physiological make-up, yet if animal ethicists fail to provide an account of animal minds that satisfies the requirements of HOT theories, they remain vulnerable to the challenges presented by certain HOT theorists who argue that consciousness requires an intellectual, cognitive, or conceptual component. According to Carruthers, since animals cannot think about their experiences, they can “have pains, [although] they do not feel pains” (Carruthers 1992, 2). This line of thought is echoed by Dennett, who claims that many philosophers mistakenly assume that all pain is “experienced pain” (Dennett 2008, 118).

Although the central goal of this paper is to motivate a concern for nonhuman animals in conversations regarding HOT theories of consciousness, this discussion should not be misconstrued as an argument for HOT theories of consciousness. Rather, the intent is to illustrate that nonhuman animals have HOT, which prepares animal ethicists against the anticipated charge that nonhuman animals are not conscious due to a lack of cognitive sophistication. That is, *if* it turns out that HOT theories are correct (or even if popular opinion supports a HOT theory without it actually being correct), animal ethicists must demonstrate the capacity for HOT in nonhuman animals in order to ensure that they are afforded moral attention. Furthermore, demonstrating HOT in nonhuman animals is helpful in ensuring their moral considerability under *any* theory of consciousness. If we can illustrate that nonhuman animals have consciousness under a HOT account, then it is likely that animal consciousness will be demonstrable in any other theory of consciousness, since HOT is said to require the greatest conceptual burden.



So, if we grant, for argument's sake, that a being is conscious only if it possesses higher-order thought, animal ethicists must illustrate the capacity for higher-order thought in nonhuman animals. Yet, if we grant that nonhuman animals have higher-order thought or intentionality in an attempt to ensure their moral considerability, we do so at the risk of attributing moral *agency* to them, which would entail that nonhuman animals can be “morally evaluated—praised or blamed—for [their] motives and actions” (Rowlands 2011, 519). We would then be justified in attributing notions such as guilty, morally blameworthy, violators of the moral law, and so forth to nonhuman animals.

While it is possible for such moral notions to apply to nonhuman animals, it would be a mistake to unreflectively assume that having HOT entails moral agency. Thus, the following discussion should not be misconstrued as an attempt to preserve or take for granted the widespread intuition that moral agency should not be attributed to nonhuman animals. Rather, this discussion should be perceived as a call for caution when attempting to demonstrate animal consciousness in the realm of HOT theories. It is a gentle reminder to refrain from too readily attributing the most sophisticated cognitive capacities to nonhuman animals for the sake of generating moral concern. It is a warning that we may find ourselves tempted to demonstrate that nonhuman animals possess highly unique and sophisticated capacities, beyond what is necessary for demonstrating higher-order thought.

In avoiding this error, it will be helpful to first clarify what moral agency involves: (1) the capacity to form beliefs or thoughts about the mental states of others (this is described as “mindreading”), and (2) the ability to assess one's own beliefs,

desires, or thoughts about the mental states of others as right or wrong. Keeping this description of moral agency in mind, the claim that HOT entails moral agency can be resisted in two ways: (1) by illustrating that nonhuman animals can have HOT without having the ability to mindread, thus denying that they necessarily have regard for the mental states of others even if they have metacognition, or (2) by denying that having higher-order thoughts about the mental states of others entails the further capacity to evaluate such thoughts as right or wrong. Thus, even if nonhuman animals have higher-order thoughts about their own mental states (metacognition) or the mental states of others (mindreading), neither necessarily entail moral agency.

### **5. Higher-order thought, metacognition, and non-human animals**

The first requirement of moral agency entails the capacity to attribute mental states such as beliefs, desires, sensations, and perceptions to others. This is known as having a “theory of mind.” If one cannot understand that others suffer, feel pain, experience happiness, and so forth, then one cannot be held responsible for affecting another’s mental states since one is unaware *that* one’s actions affect others. In determining whether a HOT theory is committed to the conclusion that conscious beings have a theory of mind, we must first consider whether the having of higher-order thoughts about one’s own mental states (metacognition) requires that one have higher-order thoughts about another’s mental states (mindreading).

A theory of mind, also known as mindreading, is defined by Lurz (2009, 282) as “the ability to predict, explain, or understand the behavior of other subjects by means of attributing mental states to them,” which requires, at the very least, having

higher-order thoughts about another's mental states. Carruthers (2000) maintains that metacognition entails mindreading: if nonhuman animals have higher-order thoughts about their own mental states, then they must necessarily be capable of having such thoughts about the mental states of others. This idea is often supported by an appeal to Evans's "generality constraint," which maintains that in order to have concepts, possessors of thought must be capable of combining the concepts they possess. So, if one has the concept of *F*, *G*, *a*, *b*, one must be able to combine the concepts and form the thoughts *Fa*, *Ga*, *Fb*, *Gb* (Evans: 1982, 100). Keeping this in mind, consider that an animal is capable of the following three thoughts: *I walk*, *the fox walks*, *I am in pain*. It thus has the concept of *I*, *Fox*, *walk*, and *pain*. According to the generality constraint, the animal should be able to combine the concepts in the following way: *I walk*, *the fox walks*, *I am in pain*, and *the fox is in pain*. Thus the animal must be able to conceive of other subjects (such as foxes) as having different mental properties, such as "the fox is in pain."

This mindreading requirement is contested by certain philosophers of mind who argue that Carruthers overstates the requirements of HOT. Gennaro (2009) and Ridge (2001) argue that having higher-order thought does not require that one be able to mindread—one may very well have higher-order thoughts about one's own mental state without being capable of having a higher-order thought about the mental states of others. Having higher-order thought only requires the thinker to have an implicit "I-thought" which distinguishes the thinker from outer objects, but those outer objects "need not always include the mental state of other conscious beings" (Gennaro 2004, 45-66). Such a view is further substantiated by Goldman (2006) who argues that self-attribution of mental states is prior to the

capacity to attribute mental states to others. Although Gennaro, Ridge, and Goldman agree that mindreading is sufficient for higher-order thought in nonhuman animals, their claim is that it is not necessary for higher-order thought.

The claim that metacognition is possible in the absence of a mindreading capacity is often supported by an appeal to self-confidence studies, such as the one conducted by Smith and Washburn (2005). In this study, monkeys learned to control a joystick to choose answers in discrimination tests about visual patterns on a computer screen. When they selected the correct answer, they received treats and when they chose incorrectly, they received dreaded timeouts. Unique to this study was a “pass” option, which a monkey could choose if the test was too difficult. When they selected the pass option, they moved to the next test, which was more desirable than a timeout but less pleasurable than receiving the treat. The monkeys were said to demonstrate a capacity for metacognition when they selected the pass button—that is, they were said to be capable of assessing their own level of confidence and understanding when they were uncertain. Understanding one’s own uncertainty is an instance of metacognition or higher-order thought, yet nothing about this instance of metacognition required the monkey to have a higher-order thought about another’s mental state.

Another line of thought which suggests that metacognition is possible in the absence of a mindreading capacity is introduced by Lurz (2009), who points out that nonhuman animals could have “subject-less” higher-order thoughts or concepts without having even an idea of the self, let alone a concept of other minds. He asks us to compare animals’ conceiving to our conceiving of rain and snow: just as we can be aware that it is raining without there being a thing or subject that is raining, a

nonhuman animal can be aware that “it hurts” without having a concept of a subject who is in pain. Thus, nonhuman animals could very well conceive of their mental states as subject-less features placed at a time. Lurz (2009, 195) concludes that “the HOT theory allows for the presence of conscious states even in the absence of any (either self-attributing or other-attributing) conscious higher-order thought.”

If higher-order thought does not require that one have thoughts about the mental states of others, it is not the case that nonhuman animals who have HOT necessarily have regard for others, which is required for moral agency. Thus, according to this view, having HOT by no means entails moral agency.

## **6. Higher-order thought, mindreading, and non-human animals**

Carruthers (2008) points out that these self-confidence studies fail to prove that the subject is incapable of mindreading, even though they demonstrate a capacity for higher-order thought without employing mindreading capacities in this particular instance. While these self-confidence studies do indeed demonstrate the capacity for metacognition, they do not exclude the possibility of mindreading.

Keeping this in mind, let us suppose that Carruthers is correct and that higher-order thought does in fact require mindreading. This, then, brings us back to the question of whether HOT entails moral agency. A distinct response is to argue that even if mindreading is necessary for consciousness, it is not sufficient for moral agency. So, even if we grant mindreading capabilities to nonhuman animals with the aim of demonstrating consciousness, they still have not met the conditions for moral agency. This is because in order to act as a moral agent,

one must also be able to understand the significance (the rightness or wrongness) of affecting another's mental state. This involves, what I call, *moral thought third-order intentionality*, which in turn requires two things: (1) third-order intentionality, and (2) the ability to possess moral concepts, such as the concepts of rightness and wrongness.

Before proceeding, let us pause to consider what it means when we say that a certain mental state has intentionality. Intentionality refers to a representational character: the "about-ness" of a thought, belief, or desire. Thoughts, beliefs, and desires are intentional states because they are *about* something: one has a desire to drink water, a belief that it will rain, or a thought about a cat. First-order intentionality entails that a being has a belief, desire, or perception about something, such as a perception of the computer screen. According to HOT theory, one must have *at least* second-order intentional states in order to be conscious: a thought about another mental state, such as a thought about the perception of the computer screen.

Let us apply these considerations of intentionality to the question of moral agency, which entails, at the very least, the capacity to form higher-order thoughts *about* the mental states of others (mindreading). According to Lurz (2011), evidence of mindreading is found when a being predicts, understands, explains, and manipulates the behaviors of others through an ability to hypothesize about what is going on in their mind. An example that is often pointed to in order to illustrate this capacity for mindreading in nonhuman animals is deception. Intentional deceptive behavior in nonhuman animals, also known as the desire to produce a false belief, is evidence of second-order intentionality. Deceptive behavior is observed in plover birds who lure foxes towards them by pretending to have a broken

wing in order to distract the foxes from attacking their nest of eggs (Gould, 1999). Likewise, a female baboon is said to demonstrate deceptive behavior when she pretends to forage in order to prevent the alpha male from discovering that she is engaging in a sexual act with a subordinate male. These examples are said to point to an animal's ability to attribute mental states to others and to form a higher-order belief, desire, or thought *about* another's mental state: plover birds are said to desire to produce a false belief in the fox and the female baboon is said to desire to produce a false belief in the alpha male.

In addition to these cases of deception, the ability to mind-read is said to be apparent in nonhuman animals such as dogs who often run for help when their owner is in trouble (Rogers 1997). Evidently, the dog is said to be capable of assessing the anxious mental state of his owner. Rogers (1997, 41) also points out that the capacity for mindreading is probable in certain animals who teach others, since teaching "may be a manifestation of the ability to assess the mental state of others." Teaching, it is said, involves mental-state attribution, since the teacher presumably attributes ignorance to the one who is taught. Further evidence of mindreading in the nonhuman animal world is apparent in rats who learn to avoid poison baits by observing the reactions of other rats who become ill by consuming the same bait (Dawkins, 1993).

Countless empirical examples, beyond the ones mentioned in this paper, indicate a capacity for mindreading in all kinds of nonhuman animals. Yet, even when assuming that nonhuman animals possess HOT about the mental states of others, one remains uncommitted to the claim that nonhuman animals are thus moral agents. DeGrazia (1996, 172) draws an important distinction between being an agent and being a moral agent:

those who perform intentional actions are classified as agents, while moral agency requires something more than just the performance of intentional actions. As he points out, nonhuman animals have desires, thoughts, and beliefs that explain their actions, which entails that these animals are agents, yet it does not mean that they are therefore moral agents. This is because moral agency demands more than just having HOTs about another's mental state: moral agency requires what I call *moral thought third-order intentionality*, which requires that one not only, for instance, desire to deceive another or produce a false belief in another, but that one possess the further higher-order belief that such a desire to deceive is either right or wrong.

### **7. Moral agency and moral thought third-order intentionality**

In supporting my thesis that nonhuman animals do not necessarily possess moral thought third-order intentionality, we can refer to Bermúdez (2003), who attributes HOT to nonhuman animals, yet maintains that metarepresentational thought (thinking about thinking) requires a complex, public language that is off-limits to nonhuman animals. In his discussion, Bermúdez draws a distinction between having HOT about propositional mental states and having HOT about non-propositional mental states, such as bodily sensations and perceptual experiences. He maintains that nonhuman animals, because they are unable to speak or interpret natural language, cannot possess mental-state concepts for propositional attitudes and thus cannot have HOTs about their own or another's propositional attitudes, although he acknowledges that they can have HOT about non-propositional mental states, such as bodily sensations and perceptual experiences. By appealing to Bermúdez's account, we can conclude that although nonhuman animals can



form HOTs about another's mental state (what is referred to as perceptual mindreading) by representing the perceptual state of another and adjusting their behavior in accordance with such representation, they are incapable of forming a HOT about their own propositional attitudes, such as a thought about their desire to deceive.

The idea that nonhuman animals can have perceptual or representational beliefs without propositional or conceptual content excludes the possibility that nonhuman animals possess moral concepts like rightness or wrongness, which are required for moral agency. Yet, let us suppose, contrary to Bermúdez (2003) and Glock (2000), that the having of any sort of higher-order thought requires the possession of concepts. Even if we demonstrate that nonhuman animals are able to possess concepts, we are not committed to the view that nonhuman animals necessarily possess moral concepts. This is because a HOT theory which retains the idea that concepts are the "building blocks of thought" only requires conscious beings to have the capacity to think in terms of *simple* concepts. The question, then, remains whether or not nonhuman animals can possess complex evaluative moral concepts, such as the concepts of rightness or wrongness.

Since having concepts requires that one recognize or discriminate different types of things, we must consider whether nonhuman animals can discriminate right actions from actions that are not right (Allen 1999). Bekoff and Pierce (2009) point to the codes of conduct of certain species of animals that are said to demonstrate at least a rudimentary understanding of right and wrong. As an example, they point to the rules used by coyotes concerning the training of cubs. If cubs bite too hard, they are ostracized by the rest of the group and often end up

having to leave entirely. Chimpanzees are also said to demonstrate a sense of justice by setting upon those in the group who deviate from the code. Yet, one need not necessarily possess a moral concept of “right” or “wrong” in adhering to the code of conduct employed by these groups of animals: one can simply adhere to these rules because it is the norm of the group. That is, although nonhuman animals can distinguish an action that violates their group’s code and threatens cooperative behavior from one that does not, this does not entail that they judge these particular actions to be right or wrong. Rather, nonhuman animals can be said to perform those actions which they find to be the most preferable after weighing competing desires, such as weighing the desire for cooperation against the desire for a pleasure associated with disruptive behavior.

This line of thought is supported by Searle (2001) who argues that although nonhuman animals can engage in ends-mean reasoning, they cannot have desire-independent reasons for action. Keeping the “desire-independent action” thesis in mind, let us return to the actions of the plover birds or the female baboons. In such scenarios, we should not be so quick to judge that the animals formed a thought about the rightness or wrongness of their desire to affect another animal’s mental state. Rather, a more plausible explanation is that the animals performed their actions out of a desire, such as the desire to avoid punishment or some other negative consequence like the pain the bird may feel from losing its eggs or the chastisement the baboon may receive from the alpha male. Thus, even if we acknowledge that nonhuman animals possess certain concepts, we still have no reason to assume that they employ moral concepts and evaluate their desires and beliefs. Rather, our evidence corroborates Searle’s argument: nonhuman animals seem not to act independently from their desires.

The coyote example is also useful in demonstrating Searle's theory. In demanding that the cubs leave the group for biting too hard, the other coyotes seem to respond by "punishing" the behavior that threatens the group since there is a strong desire for cooperation. This line of thought can also be used to explain so-called altruistic actions noted by Gould and Gould (1999, 150): "dolphins keep injured members of the group afloat, vampire bats share food with starving inhabitants of their colony, [and] elephants help form a defensive circle to protect the young of the herd," or the sense of fairness monkeys are said to demonstrate in their sharing of food (de Waal 2006). These apparent instances of moral behavior or "wild justice" can be explained in terms of desire—a desire for cooperation, survival, or a desire to help others—or in terms of psychological tendencies and capacities for empathy, order, cooperation and so forth. That is, we can explain these behaviors independently of attributing moral thought third-order intentionality, which requires the possession of moral concepts and HOTs about one's own propositional attitudes.

To claim that nonhuman animals possess the concept of right or wrong entails that they are able to distinguish between moral and amoral desires, yet this is unlikely since it is improbable that a nonhuman animal possesses such rich evaluative concepts. As DeGrazia points out, there are certain concepts that nonhuman animals cannot have because their possession requires a sophisticated language and, evidently, nonhuman animals do not have a high level of linguistic ability (DeGrazia 1996, 157). Moral concepts, it seems, are example of concepts which are off limits to beings without sophisticated language because in order to have a concept like "rightness," one must be able to provide reasons or justification that support the conclusion that said action is right (DeGrazia 1996, 204). Until we are

provided with convincing evidence that nonhuman animals are able to conceptualize morality, we should continue to describe these apparent “moral actions” in terms of desire.

The underlying concern fundamental to this discussion is captured by Morgan’s Canon: “in no case is an animal activity to be interpreted in terms of higher psychological processes if it can be fairly interpreted in terms of processes which stand lower in the scale of psychological evolution and development” (Morgan 1903, 59). This is not to say that we should always provide an inferior explanation of nonhuman animal cognition, but it is to say that we may at times lack the appropriate reasons or evidence needed to characterize nonhuman animals in the same way we characterize human beings.

My prior discussion assumes that there are obvious similarities between nonhuman animals and human beings in regard to their capacity for metacognition; thus, to deny that nonhuman animals have “humanlike” characteristics in this respect would be anthropodenial: a blindness to the similarities of humans and certain nonhumans (de Waal 1999). Yet, there is a disanalogy in the moral agency discussion: we simply do not observe moral agency in nonhuman animals while in the self-confidence studies or cases of deception we do in fact observe similarities between humans and nonhuman animals. There is a mean to be found between anthropomorphism and anthropodenial that involves recognizing the relevant similarities between humans and nonhumans while preserving the differences that cannot be reconciled.

### **8. Is it even desirable for nonhuman animals to be moral?**

We can thus conclude that nonhuman animals may be phenomenally conscious according to HOT theories of consciousness since there is significant evidence that they possess the capacity for higher-order thoughts about their own mental states and the mental states of others, yet they cannot be said to be moral agents since it has not been demonstrated that they can attribute the moral concepts of rightness or wrongness to their thoughts, desires, or beliefs. As a consequence, nonhuman animals should be neither blamed nor praised for their actions; thus we should not only refrain from calling nonhuman animals “bad” or “evil,” but we should also suspend any tendency to classify certain nonhuman animals as “heroes” or “saints” - that is, until we have further reason to support the claim that nonhuman animals possess complex moral concepts.

Although this conclusion may seem obvious, we should stop to question the common tendency to characterize nonhuman animals in an anthropomorphic way in an attempt to awaken or incite the public’s moral attention. A paradigm example of this “good intentioned” anthropomorphism is apparent when the greyhound named Guinefort was venerated as a saint in mid-13<sup>th</sup> century France after he was unjustly killed after saving a child’s life (Salisbury 1994, 173).

Recently, less extreme efforts have been made to demonstrate that certain nonhuman animals possess at least a primitive form of morality (Bekoff 2009; Rowlands 2012; de Waal 2006). The claim is that some of their actions are motivated by kindness, empathy, compassion, altruism, beneficence and so forth, which is assumed to demonstrate that nonhuman animals are at least moral subjects with their own sense of morality. The

fundamental goal, it seems, is to refute human moral exceptionalism: the idea that humans alone are capable of acting morally (Rowlands 2012). While Bekoff, Rowlands, and de Waal concede that these sorts of behaviors do not demonstrate full blown moral agency, they adamantly insist that they are indicators of at least a primitive moral code, thus concluding that humans are not the only moral beings.

A pressing concern remains: why are we so adamant about demonstrating that nonhuman animals can act morally or that they are often “motivated by moral reasons” (Rowlands 2012), acting in ways that express more than just pro-social behavior (Bekoff 2009)? Do we really want to, by pointing to the “moral dimension” of nonhuman animals, open the door to clichés such as the claim that human beings are justified in eating meat or exploiting nonhuman animals because they “deserve” such treatment since they themselves viciously and cruelly kill, hurt, and injure other animals? If virtuous behavior is possible, so then is vicious behavior, yet seldom do we see significant attention afforded to animal behavior that could easily be characterized as vicious or cruel: ant colonies which are said to fight genocidal wars and enslave other ants (Foitzik & Herbers 2007), male bottlenose dolphins who aggressively “herd” females by chasing, biting, and slamming into them with their bodies (Connor et al 1992), and ducks, geese, and white-fronted bee-eaters who commonly engage in forced mating (Emlen & Wrege 1986).

If we can illustrate the capacity for higher-order thought in nonhuman animals (beliefs and desires) without presupposing that they possess a “moral code,” it seems superfluous and even dangerous to direct our efforts at describing their so-called moral traits. Thus, animal ethicists should pause to consider that it may very well be contrary and detrimental to the ani-

mal ethics vision to spend so much energy demonstrating how humanlike certain nonhuman animals are in their ability to act morally.

This is not to suggest that we should refuse to investigate, out of respect and wonder for nonhuman animals, their complex mental life. Sure, it stimulates a response of awe, appreciation, and wonder when we hear about the hungry rhesus monkeys who would not take food if doing so gave another monkey an electric shock, the gorilla who rescued a child who fell into her enclosure at the zoo, or the canine who weaved in and out traffic in order to rescue his unconscious companion in the midst of a busy highway. But if these “moral behaviors” are: (1) not needed to ground a theory of animal consciousness, and (2) irrelevant to the discussion of genuine moral agency, why is there such a relentless philosophical determination to characterize these actions as moral?

## 9. Conclusion

We should remain open to describing the behavior of nonhuman animals in terms of pro-social behavior rather than as moral behavior. Characterizing the behaviors of nonhuman animals as “moral” is seemingly unhelpful: it is not conducive to the goal of ensuring their moral considerability, and furthermore, it may in fact provide a justification (however bad it might be) or motivation for killing or exploiting them. Consciousness does not require the capacity for moral behavior, even under a HOT theory of consciousness, and it would behoove the animal ethicist to recognize this, lest they risk denying consciousness or moral consideration to other, less sophisticated or less interesting nonhuman animals. Thus, rather than try to satisfy the anthropocentric demands of western morality that valorizes humanlike traits and characteristics, animal ethicists should re-

main firm in pursuing an account of animal consciousness and moral considerability that does not aspire to demonstrate how much nonhuman animals are like human beings in their ability to act morally.

In doing so, we should respect the possibility that nonhuman animals and human beings are indeed different in regard to their cognitive and moral capacities, yet this difference does not entail the inferiority of nonhuman animals. As far as we know, it is only human beings who can, with their more sophisticated intellectual capacities, perform vicious, atrocious, cruel and deceptive actions such as mass genocide, killing, raping, stealing, and other heinous crimes. In the spirit of Nietzsche, who writes in *Thus Spoke Zarathustra* that “man is the cruelest animal,” we should recognize that nonhuman animals possess limited cognitive capacities and are thus indeed unlike human beings, yet this intellectual or cognitive difference is one that we should, for once, embrace for the sake of all nonhuman animals. We should consider whether comparing nonhuman animals to human beings is insulting and offensive to nonhuman animals, since human beings, with our “morality,” are the only beings we have reason to believe are “so artfully, so artistically cruel” (Dostoyevsky 2002, 238).

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